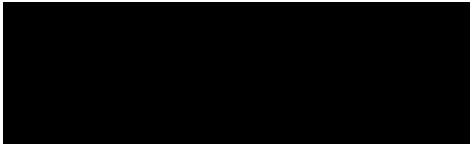


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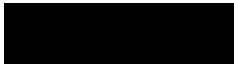
U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services



FILE:



Office: BOSTON

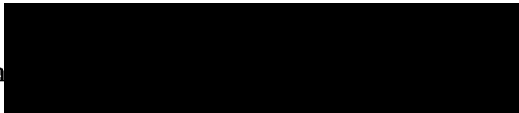
Date:

MAR 29 2004

IN RE:

Obligor:

Bonded Alien



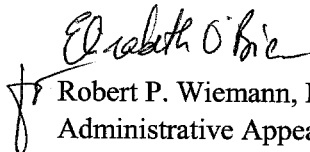
IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the Immigration and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

DISCUSSION: The voluntary departure bond in this matter was declared breached by the District Director, Boston, Massachusetts, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The obligor appears to be represented; however, the record does not contain Form G-28, Notice of Entry of Appearance as Attorney or Representative. All representations will be considered, but the decision will be furnished only to the obligor.

The record indicates that on September 26, 2000, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge dated September 19, 2000, was issued granting the alien voluntary departure in lieu of removal on or before November 20, 2000. On January 21, 2003, the district director concluded the bond had been breached. The alien has failed to depart.

8 C.F.R. § 103.3(a)(2)(v)(B) states:

Untimely appeal--(1) Rejection without refund of filing fee. An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Untimely appeal--(2) Untimely appeal treated as motion. If an untimely appeal meets the requirements of a motion to reopen as described in section 103.5(a)(2) of this part or a motion to reconsider as described in section 103.5(a)(3) of this part, the appeal must be treated as a motion, and a decision must be made on the merits of the case.

On appeal, the obligor asserts that he filed an application for deferred action with the legacy Immigration and Naturalization Service, thereby staying his departure. No evidence of a stay was submitted. The obligor's statement, on appeal, does not meet the requirements of a motion.

Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The decision dated January 21, 2003 clearly advised the obligor that any appeal must be filed within thirty days. Coupled with three days for mailing the appeal, in this case, should have been filed on or before February 24, 2003. The appeal was received by ICE on March 17, 2003.

Based upon the obligor's failure to file a timely appeal, the appeal will be rejected.

ORDER: The appeal is rejected.